

**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 1, 2008
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: Deputy City Manager Wanda Page, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order welcoming everyone in attendance and announced that the City Council was late due to attending the community opening of the Durham Performing Arts Center. At this time during the meeting, there was a moment of silent meditation and the pledge of allegiance was led by Council Member Clement.

Council Member Ali read a Resolution Memorializing Alexander M. Rivera, Jr. that was presented to Dr. Otis Washington and Robert Lawson who made comments.

Council Member Woodard recognized and apologized to the Farrington Road area residents who were in attendance for not knowing that the long range transportation plan item was not on the agenda tonight. He asked the City Clerk to provide a copy of the petition presented by the neighborhood to Council.

Council Member Clement made comments on a signed petition asking Council to review the Adam and Eve program that is slated to be built on Fayetteville Road and Highway 54. He asked staff if a public hearing could be held during the next cycle to allow citizens in the area an opportunity to be heard.

Mayor Bell stated he did not want to have a public hearing to get people's expectations up to simply say that nothing can be done which has already been communicated.

City/County Planning Director Steve Medlin commented on the property that has been zoned neighborhood commercial/commercial neighborhood reporting as a commercial zone any of the retail uses that are permitted by ordinance are allowed on the site. He discussed CN limitations, retail uses and acknowledged his site visits to the facility, other venues and that the merchandise to be sold at this facility would not violate the ordinance or be considered as an adult establishment for selling goods.

Mayor Pro Tempore Cole-McFadden made comments on the discussion she held with Senior Assistant City Attorney who shared that Council cannot do anything to prohibit this building. She asked staff to facilitate discussion with the owners of the store regarding their display

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window.

Council Member Clement stated Council should intervene with the owners of Adam and Eve regarding the window display.

After discussion, it was determined that Council Member Clement would serve as the Council liaison and he would work with City/County Planning Director Steve Medlin regarding this effort.

City/County Planning Director Steve Medlin stated he would follow up with the City Attorney's Office regarding the request.

Mayor Bell asked if there were any priority items from the City Manager, City Attorney and City Clerk. Deputy City Manager Wanda Page requested that Agenda Item #29--Unified Development Ordinance [UDO] Text Amendment - Downtown Nightclubs or Bars--be referred back to the administration--City/County Planning Department.

MOTION by Council Member Woodard seconded Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority item was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There are no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item 8 was pulled and Council Member Catotti stated she would be voting against Agenda Item #17.

MOTION by Council Member Catotti seconded by Council Member Woodard to approve the Consent Agenda as amended was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Catotti seconded by Council Member Woodard to approve City Council minutes for the October 20, 2008 and November 3, 2008 City Council Meetings; and

To approve City Council action taken at the October 9, 2008 and October 23, 2008 City Council Work Sessions was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENTS

MOTION by Council Member Catotti seconded by Council Member Woodard to appoint Regenna Rouse-Hasan and Melessia F. Cozart to the Human Relations Commission as Minority Females with terms to expire on June 30, 2010 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM BOARD OF ADJUSTMENT – APPOINTMENT

MOTION by Council Member Catotti seconded by Council Member Woodard to appoint Henry D. Blinder as an Alternate Member to the Durham Board of Adjustment with the term to expire on June 30, 2009 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING - 1,656 LINEAR FEET OF LEMUR LANE
(SC0800012)**

MOTION by Council Member Catotti seconded by Council Member Woodard to adopt a Resolution to set a public hearing on the proposed closing of 1,656 linear feet of Lemur Lane for January 5, 2009 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9616

SUBJECT: STREET ACCEPTANCES – TREYBURN FOREST PHASE II, CHELSEA MEADOWS II

MOTION by Council Member Catotti seconded by Council Member Woodard to accept the streets on the list for maintenance by the City of Durham was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Treyburn Forest – PH II

- 1) Cabin Branch Drive – from the centerline of Vintage Hill parkway north then east to the centerline of Snow Hill Drive (1,059') and,
- 2) Springtree Circle – from the centerline of Cabin Branch Drive west through the cul-de-sac (135'.)

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Chelsea Meadows II

- 1) Panthers Run Drive – from the centerline of Bellenden Drive south to the beginning of existing pavement (202') and,
- 2) Hunting Chase Drive – from the centerline of Bellenden Drive south to the beginning of existing pavement (200') and,
- 3) Ramcat Road – from the centerline of Bellenden Drive south to the beginning of existing pavement (200') and,
- 4) Timber Wolf Drive – from the end of existing construction northwest through the cul-de-sac (144') and,
- 5) Bellenden Drive – from the end of existing construction west through the cul-de-sac (1,045') and,
- 6) Bladendoro Court – from the centerline of Bellenden Drive north through the cul-de-sac (120'.)

SUBJECT: OVERTIME COMPLIANCE AUDIT - OCTOBER 2008

MOTION by Council Member Catotti seconded by Council Member Woodard to receive and accept the Overtime Compliance Audit dated October 2008 as presented and approved at the October 27, 2008 meeting of the Audit Services Oversight Committee was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: MORTGAGE LOAN PORTFOLIO QUARTERLY REPORT FIRST QUARTER, FY2009

MOTION by Council Member Catotti seconded by Council Member Woodard to receive the Mortgage Loan Portfolio Quarterly Report First Quarter, FY2009 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
SUBRECIPIENT CONTRACT WITH EDMONT NEIGHBORHOOD,
LLC FOR 1005 MORNING GLORY AVENUE**

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the expenditure of up to \$40,000.00 in Community Development Block Grant (CDBG) funds;

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To authorize the City Manager to execute a CDBG Subrecipient Contract with Edgemont Neighborhood, LLC in an amount up to \$40,000.00 for the purchase of 1005 Morning Glory Avenue; and

To authorize the City Manager to modify the contract before execution provided that the modifications do not increase the dollar amount of the contract and that the modifications are consistent with the general intent of the existing version of the contract was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PERMANENT COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) LOAN AGREEMENT BETWEEN THE CITY OF DURHAM AND VOLUNTEERS OF AMERICA (VOA) DURHAM LIFE HOUSE, INC.

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the expenditure of \$240,000.00 in HOME CHDO funds;

To authorize the City Manager to execute a Community Housing Development Organization (CHDO) Loan Agreement and related documents with Durham LIFE House, Inc. in the amount of \$240,000.00 at an interest rate of 0%, forgivable over 30 years; and

To authorize the City Manager to modify the loan documents before execution provided that the modifications do not increase the dollar amount of the agreement and do not lessen the obligations of the contractor was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: AMENDMENT TO THE CITY OF DURHAM EMPLOYMENT AND TRAINING 2008-2010 GRANT PROJECT ORDINANCE #13695

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to accept the Employment and Training Grant by executing the grant documents; and

To adopt the Employment and Training Grant Project Ordinance FY 2008-2010 in the amount of \$1,505,203.00 superseding Grant Project Ordinance #13695 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13743

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**SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT
(CDBG) SUBRECIPIENT CONTRACT WITH LEWIS AND CLARK
COMMUNITY DEVELOPMENT, LLC**

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the expenditure of \$177,000,000.00 in Community Development Block Grant (CDBG) funds;

To authorize the City Manager to execute a CDBG Subrecipient contract with Lewis and Clark Community Development, LLC for an amount up to \$177,000.00 to renovate 801 Gilbert Street into a small business incubator; and

To authorize the City Manager to modify the contract before execution provided that the modifications do not increase the dollar amount of the contract and that the modifications are consistent with the general intent of the existing version of the contract was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT BETWEEN THE CITY OF DURHAM AND SPORTS &
PROPERTIES, INC. TO SELL MINOR NAMING RIGHTS FOR THE
DURHAM PERFORMING ARTS CENTER – DUKE ENERGY -
KEYSOURCE BANK - JIM STEWART FAMILY**

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to execute a minor naming rights contract for the Box Office with Duke Energy in the amount of \$75,000.00;

To authorize the City Manager to make modifications to the contract so long as the modifications do not decrease the dollar amount to be received nor increase the services to be provided by the city;

To authorize the City Manager to execute a minor naming rights contract for the Orchestra Concessions Area - West with KeySource Bank in the amount of \$7,500.00;

To authorize the City Manager to make modifications to the contract so long as the modifications do not decrease the dollar amount to be received nor increase the services to be provided by the city;

To authorize the City Manager to execute a minor naming rights contract for the Box Office Manager's Office with Jim Stewart family in the amount of \$25,000.00; and

To authorize the City Manager to make modifications to the contract so long as the modifications do not decrease the dollar amount to be received nor increase the services to be provided by the city was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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SUBJECT: AMENDMENT TO INTERLOCAL TAX AGREEMENT - HEAVY EQUIPMENT RENTAL – COUNTY OF DURHAM

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to execute the first amendment to the Interlocal Agreement for collection of taxes between Durham County and the City of Durham was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DESIGN CONTRACT AMENDMENT FOR GENERAL SERVICES BUNDLE - ROUGHTON, NICKELSON, DE LUCA ARCHITECTS, PA

MOTION by Council Member Catotti seconded by Council Member Woodard to adopt a Resolution Exempting the General Services Bundle project from G.S. 143-64.31;

To authorize the City Manager to execute a contract amendment to the Professional Services Agreement for the General Services Bundle with Roughton, Nickelson, De Luca Architects, PA in an amount not to exceed \$83,513.00 so that the total contract amount will not exceed \$511,113.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To increase the project contingency for design from the originally authorized amount of \$42,000.00 in the amount of \$15,270.00 to a total of \$57,270.00; and

To authorize the City Manager to negotiate and execute change orders on the General Services Bundle project provided the total contract amount does not exceed \$568,383.00 was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9617

SUBJECT: AMENDMENT TO THE MINIMUM LIVABLE WAGE ORDINANCE

MOTION by Council Member Catotti seconded by Council Member Woodard to adopt an Ordinance Amending Sections 18-19, 18-20, 18-21 and 18-23 of the Durham City Livable Wage Ordinance in order to exempt those performing full and part time duties that are not substantially similar to full time positions and to make the Durham City and Durham County livable wage rates equal was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Ali, Brown, Clement and Woodard. Noes: Council Member Catotti. Absent: None.

Ordinance #13744

SUBJECT: AMENDMENTS TO INTERLOCAL AGREEMENT BETWEEN THE CITY OF DURHAM AND DURHAM PUBLIC SCHOOLS BOARD OF EDUCATION FOR THE RENOVATION AND USE OF THE HOLTON CENTER

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to execute the first and second amendments to the Interlocal Agreement between the City and Durham Public Schools Board of Education for the Holton School Renovation was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: WATER EXTENSION AGREEMENT WITH JWH PROPERTIES, INC. - ALEXANDER VILLAGE PHASE II

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to enter into a water extension agreement with JWH Properties, Incorporated to serve Alexander Village Phase II; and

To authorize the City Manager to modify the contract prior to execution provided that such modifications do not increase the dollar amount of the contract and do not significantly decrease the obligations of the contractor was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT FR-2, FILTER BELT PRESS REHABILITATION, NORTH DURHAM WATER RECLAMATION FACILITY - ASHBROOK SIMON-HARTLEY OPERATIONS, LP

MOTION by Council Member Catotti seconded by Council Member Woodard to authorize the City Manager to execute a contract with Ashbrook Simon-Hartley Operations, LP for Contract FR-2 – Filter Belt Press Rehabilitation in the amount of \$534,340.00;

To establish a contingency fund for Contract FR-2 of \$50,000.00;

To authorize the City Manager to negotiate change orders for Contract FR-2 provided that the cost of all change orders does not exceed \$50,000.00 and the total project cost does not exceed \$584,340.00; and

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To authorize the City Manager to make changes to the contract before execution provided the changes do not increase the amount to be paid by the City and do not decrease the goods and services to be provided to the City was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: RESOLUTION SUPPORTING REGIONAL CONSERVATION WORK
GROUP RECOMMENDATIONS FOR YEAR-ROUND WATER
CONSERVATION MEASURES**

MOTION by Council Member Catotti seconded by Council Member Woodard to adopt a Resolution supporting Regional Conservation Work Group Recommendations for Year-Round Water Conservation Measures was approved at 7:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9618

The City Council disposed of the following agenda items at the November 20, 2008 Work Session:

11. Amendment to the City of Durham Employment and Training 2007-2009 Grant Project Ordinance #13658

To authorize the City Manager to accept the Employment and Training Grant by executing the grant documents; and

To adopt the Employment and Training Grant Project Ordinance FY 2007-2009 in the amount of \$1,449,068.00 superseding Grant Project Ordinance #13658.

(This item was referred back to the Administration-Economic and Workforce Development Dept)

22. Transportation Options for 2035 Long Range Transportation Plan (2035 LRTP)

To receive a presentation on Transportation Options for 2035 Long Range Transportation Plan (2035 LRTP).

(A presentation was received at the 11-20-08 Work Session)

23. Status of Water and Sewer Capital Projects

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To receive a presentation on the Status of the Water and Sewer Capital Projects

(A presentation was received at the 11-20-08 Work Session)

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

**SUBJECT: ORDERING IMPROVEMENT UNDER ENABLING ACT AUTHORITY -
WATER MAIN ON DONPHIL ROAD**

Engineering and Storm Water Manager Ed Venable made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments on the following proposed improvement; and

To adopt a resolution ordering a Water Main on Donphil Road from Brenda Court to Gatewood Drive was approved at 7:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET CLOSING – 295 LINEAR FEET OF SUMTER STREET
(SC0800007) – DUKE UNIVERSITY – NORTH OF MAXWELL STREET,
SOUTH OF WEST PETTIGREW STREET**

To conduct a public hearing to receive public comments on the permanent closing of 295 linear feet of Sumter Street, north of Maxwell Street, south of West Pettigrew Street; and

To adopt an Order permanently closing 295 linear feet of Sumter Street.

City/County Planning Director Steve Medlin briefed Council on the staff report. He noted this street closing is being requested by Duke University to permanently close 295 linear feet of Sumter Street, located north of Maxwell Street and south of West Pettigrew Street. He reported the right-of-way closing is being proposed to allow for the recombination of adjacent properties for future development by Duke University. He stated the applicant has submitted a site plan which reflects additional parking areas, internal drive connections to Campus Drive, West Pettigrew Street and Buchanan Street and the additional improvements are inclusive of mass transit facilities including bus pull outs and pedestrian walkways. He stated this street closing has been fully evaluated by staff and service providers and no adverse impacts have been identified with the proposed street closing, appropriate right-of-ways have been obtained by utilities where needed. He stated staff is recommending approval of this street closing since no

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significant adverse impacts have been identified nor is the street segment deemed necessary for traffic circulation as a public right-of-way.

Mayor Bell opened the public hearing.

Mark Eckert of 506 Gattis Street/representing the Burch Avenue Neighborhood Association, stated the residents recognize and applaud Duke University efforts to renovate and revitalize the properties around the Smith Warehouse on Maxwell Street, but they do not see how the public good is being served when public streets are ceded to a private entity like Duke without a written guarantee that those streets will continue to be accessible to the public. He noted access will be critical when Duke University creates 800 additional parking spaces near the intersection of Main and Buchanan Boulevard which will have a serious impact on the amount of traffic in that area and it is critical that all possible road options remain open to the public. He stated representatives of Duke have stated privately they do not have plans to close Maxwell Street permanently, but there is no guarantee that Sumter Street will remain open. He expressed concern that once the streets are ceded to Duke, they will have the authority to close both streets at a future date without public comment or City intervention. He urged Council to amend the motion to cede Maxwell and Sumter Street so that they permanently ensure public access. Mr. Eckert made comments on the need for street improvements to ensure the flow of traffic and public safety and that it shall be mandatory that the cost of these improvements be borne by Duke University and the agreement on these issues should be reached before City cedes Maxwell and Sumter Street to Duke.

John Schelp, representing the Old North Durham Neighborhood Association, stated they support the comments from the Burch Avenue Neighborhood Association and need more details before Duke gets these streets from the City. Also, he made comments in support of language maintaining public access to Maxwell Street. In addition, he referenced an e-mail sent to Council regarding the drawings from the N C State School of Design of a pedestrian facility connecting Duke Central campus, Ninth Street area, across the Smith Warehouse--Town Gown Sidewalk and would like to have language placed in an agreement to have this public purpose included in the area before giving away the public right-of-way to Duke.

Richard Twigg, 2315 Uron Street, read excerpts from an e-mail he sent to Council today asking them to not close Maxwell and Sumter Streets and expressed concern that this street closing would be an attempt to further cut-off bike, pedestrian and car access between the University and its surrounding neighborhoods.

Council Member Catotti made comments on the issue of sidewalks stating it is not necessary to have an extra sidewalk on the north side of the building. Since a concern has been expressed relative to connectivity and sidewalks, she asked staff to notify Council now and in the future if the site plan is changed.

City/County Planning Director Steve Medlin informed Council that staff will include a note on the site plan indicating if there are any changes, Council would be notified.

Sam Brockwell, representing Duke University, stated there are only 395 spaces involved with the

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closing of Sumter and Maxwell and this street is not going to be closed off to local traffic and Sumter and Maxwell Streets will be open to public transportation even though they will be public streets.

Michael Palmer, of Duke University, referenced a meeting that took place in September with the Burch Avenue Neighborhood Association regarding this street closing.

Council Member Brown commented on the reason outlined in the staff report on why Duke University wanted to close this street and some of the concerns raised by the neighborhoods are valid ones.

City/County Planning Director Steve Medlin stated the vacating of the public right-of-way is being requested by the applicant, not the removal of the street or the ability to use it as a private street, but removing it from the public dedication of that right of way--reverting the ownership back to the private property owner in this case Duke University. Also, he made comments on the site plan that had been submitted by Mr. Brockwell's office which is under review by staff.

Mayor Pro Tempore Cole-McFadden stated she did not understand why Duke University wanted to close this street and requested further information.

City/County Planning Director Steve Medlin gave an overview of the site plan discussing the street alignment, internal connection, additional parking, drop off and bus pull outs, and sidewalks on both sides.

Council Member Ali asked staff based on the site plan it appears that the street is not closed.

City/County Planning Director Steve Medlin reported the public right-of-way will be removed from dedication, but the applicant is leaving a private street in the approximate existing Maxwell and Sumter locations.

Council Member Ali asked Mark if he was supportive of the site plan discussed this evening since there is utilization of the road.

Mark Eckert stated if they could have in writing the property will remain accessible to the public, they would support the development. Mr. Eckert further stated they support the development as stated on plan but there is no guarantee what will exist 15 or 20 years from now.

Council Member Ali asked Mr. Brockwell several questions: is this the model that was completed by Duke, is the street open on the site plan and is this what they would be doing in the development.

Sam Brockwell, representing Duke University, replied yes to all questions.

Council Member Ali asked Mr. Schelp is this enough.

John Schelp raised a concern with reviewing this site plan for the first time as a partnership

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neighborhood and with Duke not informing the neighborhoods when they are going to close a street next to the campus. On behalf of the neighborhood and the N C State School of Design, he stated they are asking for a sidewalk along Pettigrew Street along the Center for Documentary Studies connecting Center Campus and the Ninth Street TTA station on the west with Brightleaf Square on the east and this site plan does not show that sidewalk. Further he stated they want an acknowledgment by Duke University in writing placed either on the site plan or in the street closing they would install a pedestrian facility connecting Center Campus, the Ninth Street Station with Buchanan with no deadline but that they will accomplish this.

Council Member Ali asked Mr. Schelp if he supports this site plan in connection with the street closing.

John Schelp stated the Old West Durham Neighborhood Association supports the position of the Burch Avenue Neighborhood Association which is that they are interested in seeing this in writing-- that this street will remain open to public access.

Council Member Clement asked Mr. Brockwell is there a time constraint associated with this item.

Sam Brockwell, representing Duke University, replied there are constraints because people will be moving into the building in June who will need this parking.

Council Member Clement asked would a one cycle delay have an impact.

Sam Brockwell, representing Duke University, replied it probably would.

Kimball Dawkins, Vice President for Campus Services at Duke, stated a delay would have an impact on the project and on the opening of the facility.

Council Member Clement stated that he is not prepared to make a decision tonight due to issues that need to be resolved between Duke University and the neighborhoods.

In response to questions raised by Council Member Catotti, City/County Planning Director Steve Medlin addressed what is binding in terms of a site plan. Also, he reported you cannot condition a street closing on retaining public access to a property and briefed Council on the UDO requirements for connectivity and sidewalk issues.

Council Member Catotti made comments on the issue of sidewalks stating there is no need for an additional sidewalk on the north side of the building. Since concerns were raised regarding pedestrian connectivity and sidewalks, she asked staff to notify Council now and in the future if there are changes to this site plan.

City/County Planning Director Steve Medlin reported staff can place a note on the cover sheet--if there are changes to the site plan, Council will be notified.

MOTION by Council Member Clement seconded by Council Member Brown to continue the

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public hearing to the December 15, 2008 City Council Meeting was approved at 8:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown and Clement. Noes: Council Members Ali, Catotti and Woodard. Absent: None.

**SUBJECT: STREET CLOSING – 1,067 LINEAR FEET OF MAXWELL STREET
(SC0800008) – DUKE UNIVERSITY – WEST OF SOUTH BUCHANAN
BOULEVARD, EAST OF CAMPUS DRIVE**

To conduct a public hearing to receive public comments on the permanent closing of 1,067 linear feet of Maxwell Street, west of South Buchanan Boulevard, east of Campus Drive; and

To adopt an Order permanently closing 1,067 linear feet of Maxwell Street.

City/County Planning Director Steve Medlin briefed Council on the staff report. He noted this street closing is being requested by Duke University to permanently close 1,067 linear feet of Maxwell Street, located west of South Buchanan Boulevard, east of Campus Drive. Since this item is related to the Sumter Street closing, he made a suggestion that Council continue this item for one cycle.

Mayor Bell opened the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to continue the public hearing on this item to the December 15, 2008 City Council Meeting was approved at 8:21 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown and Clement. Noes: Council Members Ali, Catotti and Woodard. Absent: None.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT –
CONSERVATION SUBDIVISIONS (TC07-19)**

City/County Planning Director Steve Medlin certified that all proper notification has been carried out in accordance with the Unified Development standards. He gave an overview of the staff report briefing Council on the text amendments regarding conservation subdivisions highlighting revisions to Article 3, Applications and Permits, Article 6, District Intensity Standards, Article 7, Design Standards, and Article 8, Environmental Protection. He stated staff is recommending approval with a modification which will exempt any pending conservation subdivisions that were submitted on or before October 14, 2008 and the Planning Commission made a recommendation for approval with the same stipulation that any existing projects that were in the process as of October 14, 2008 be exempted from these requirements.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

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MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Conservation Subdivisions (TC07-19); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 3, Applications and Permits, Article 6, District Intensity Standards, Article 7, Design Standards, and Article 8, Environmental Protection was approved at 8:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13745

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – CARNIVAL HOURS (TC0800003)

City/County Planning Director Steve Medlin certified that all proper notification has been carried out in accordance with the Unified Development standards. He gave an overview of the staff report briefing Council on the text amendments regarding Carnival Hours highlighting revisions to Article 5, discussed closing hour concerns raised by the Little River Community Complex and stated the Planning Commission recommended approval and staff is recommending approval of this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Clement to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Carnival Hours (TC0800003); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations was approved at 8:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13746

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – DOWNTOWN NIGHTCLUBS OR BARS (TC0800007)

To conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Downtown Nightclubs or Bars (TC0800007); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations.

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Note: This item was referred back to the administration at the request of the City Manager.

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – PUBLIC NOTICE (TC0800008)

City/County Planning Director Steve Medlin certified that all proper notice has been carried out in accordance with the Unified Development Ordinance standards. He gave an overview of the staff report briefing Council on the text amendment regarding public notice highlighting revisions to Article 3 which would allow organizations and individuals that register to receive notice of development applications and text amendments to choose what type of notice they receive, first class mail or e-mail. He stated under the accompany fee ordinance, notice by mail would costs \$50 every two years and the e-mail notice would be provided free of charge. He reported the Planning Commission recommended approval with the modification that the \$50 fee for a mailed notice not apply, the Board of County Commissioners approved this item as recommended by staff and staff is recommending approval of this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Public Notice (TC0800008);

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 3, Applications and Permits; and

To adopt a Resolution modifying Chapter 6 of the Fee Schedule to Set a Fee For Certain Mailed Notice was approved at 8:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13747 and 13748

SUBJECT: ZONING MAP CHANGE – POSS PAS HOUSE (Z0800030) – BARRY POSS - 1514 PINECREST ROAD, ON THE NORTH SIDE OF PINECREST ROAD AND WEST OF ACADEMY ROAD

To conduct a public hearing to receive public comments on the zoning map change for Poss Pas House (Z0800030);

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To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800030 out of UC(D) and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 11-0 on October 14, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

[The site is located at 1514 Pinecrest Road, on the north side of Pinecrest Road and west of Academy Road. PIN: 0811-15-64-5198 (partial)]

City/County Planning Director Steve Medlin certified that all proper notification has been carried out in accordance with the Unified Development Ordinance standards. He briefed Council on the staff report stating the request would change the zoning designation of a 0.69 acre site located at 1514 Pinecrest Road from UC with a development plan to residential suburban 10 to permit construction of a single-family residence. He stated the request is consistent with the future land use designation of the Comprehensive Plan, reported the university college zone does not allow for single family residential use as a permitted use, a floodplain is present to the north and east of the site, but does not impact this site, there are no identified environmental constraints on the site that would preclude its ability to be used as a single-family residential use. He stated staff is recommending approval based on the consistency with the Comprehensive Plan and considering the information included in the staff report and the Planning Commission did recommend approval of this request as submitted.

Mayor Bell opened the public hearing.

Proponent

Dan Milan, representing the applicant, stated he was present to answer any questions and reported the plat relied on by all parties when this property was purchased referenced that all the property was currently zoned R-10, but that was in error.

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No one spoke in opposition to this zoning map change.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to conduct a public hearing to receive public comments on the zoning map change for Poss Pas House (Z0800030);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z0800030 out of UC(D) and placing same in and establishing same as RS-10; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13749

[ITEM PULLED FROM CONSENT AGENDA]

**SUBJECT: GOLDEN BELT NEIGHBORHOOD REVITALIZATION PROPOSAL
AND REPORT**

James Chavis made comments on the Venable Building and the Golden Belt facility raising a concern with the City paying \$476,000 to different LLCs with the same address for the rental of these facilities.

Larry Jarvis, of Community Development, reported the leases for both properties came before the Council and the LLCs were affiliates of Scientific Properties.

Deputy City Manager Wanda Page reported the two individual organizations are separate legal entities and the City would disperse funds for payment of those leases to the individual LLCs that are identified in the agenda items.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a report prepared by Urban InSite on Golden Belt Neighborhood Revitalization Efforts was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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At the request of Council Member Clement, Mayor Bell read the statement he gave at the grand opening of the Durham Performing Arts Center which recognized all persons involved with this endeavor.

There being no further business to come before the City Council, the meeting was adjourned at 8:42 p.m.

Linda E. Bratcher, CMC
Deputy City Clerk

D. Ann Gray, MMC
City Clerk